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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

4740-239

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Application Number

10/788,568

Filed

27 Feb. 2004

First Named Inventor

Tsai

Art Unit

2618

Examiner

Young

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 53,639

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Jennifer K. Stewart

Typed or printed name

919-854-1844

Telephone number

14 Nov. 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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In re Application of
Tsai, et al.

Filed: 27 February 2004

For: Secondary Link Power Control In A Wireless Communication Network

Docket No: 4740-239

PATENT PENDING

Examiner: Ms. Janelle N. Young

Group Art Unit: 2618

Confirmation No.: 9113

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14 November 2008

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Laura A. Wade

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In response to the Final Office Action (FOA) mailed 22 August 2008, the applicants submit the following remarks in support of the Pre-Appeal Brief being filed concurrently with a Notice of Appeal. If the accompanying payment does not cover all fees, please charge any remaining fees to Deposit Account No. 18-1167.

The claimed invention implements reverse-link power control at a mobile station. Broadly, the reverse-link power control of independent claims 1, 14, 25, and 39 require adjusting the power gain of traffic channel signals transmitted from a communication transceiver responsive to reception quality feedback received for the traffic channel signals from one or more remote transceivers.

The examiner maintains that independent claims 1 and 14 are obvious under §103 over Damjanovic (US2003/0050084) in view of Nobukiyo (US6993294), and that independent

claims 25 and 39 are obvious under §103 over Damnjanovic and Nobukiyo in view of Chaponniere (US6937584). The examiner concedes that Damnjanovic does not teach adjusting the power gain as claimed by the independent claims, but maintains that it would be obvious to combine the teachings of Nobukiyo and/or Chaponniere with the teachings of Damnjanovic to solve this deficiency.

The examiner's rejections are contradictory. On pp. 3 and 4 of the FOA, the examiner concedes that Damnjanovic does not teach receiving reception quality feedback and adjusting the power gain, but that Nobukiyo solves this deficiency. See, e.g., the top of p. 4, which states that Nobukiyo teaches "adjusting the power gain of one or more of the traffic channel signals responsive to reception section [sic]." On p. 13, the examiner states "What Damnjanovic et al. and Nobukiyo et al. do not explicitly teach is adjusting the power gain." Further down on p. 13, the examiner states that Damnjanovic and Nobukiyo also fail to teach "a mobile station that receives reception quality feedback for a given one of the one or more traffic channel signals." These contradictory remarks demonstrate the examiner's failure to provide a clear rejection.

There is a clear error with the proffered motivation. The obviousness rejections cited against independent claims 1 and 14 rely on the motivation argument (p. 4 of the FOA):

it would have been obvious to one of ordinary skill in the art at the time the invention was made for mobile station measuring [sic] a reception quality of the pilot signal to transmit the quality information to the base station using the uplink quality control channel (Abstract of Nobukiyo et al.) with the transmit power of a mobile station on the reverse link channel that carries channel state information, rate selection, and/or sector selection information is power controlled separately from the reverse link traffic channels when the mobile station is in soft handoff. [sic] (Abstract of Damnjanovic et al.) to reduce power consumption in the mobile station.

The examiner's proffered motivation cannot be understood. Further, to the extent that it can be understood, it appears that the examiner believes it would be obvious to transmit quality information from the mobile station (Nobukiyo?) with the transmit power of the mobile station on a reverse link control channel (Damnjanovic?) to reduce power consumption of the mobile

station. The applicants fail to see how this represents legally sufficient motivation or how it even provides a combination that teaches all limitations of the claimed invention.

Further, the applicants fail to see how the cited art or the knowledge of skilled users provides any motivation for the proposed combination. Damnjanovic describes reverse/uplink power control, while Nobukiyo teaches that an HSDPA mobile station may or may not transmit received signal quality information to a base station depending on current circumstances. See Abstract and Summary. In addition, Nobukiyo describes control of the data transmitted to the mobile station using the quality information, which corresponds to forward/downlink control. It is unclear how Damnjanovic's power control methods could or would be combined with Nobukiyo's teachings that an HSDPA mobile station may or may not transmit received signal quality information to a base station based on a threshold provided by the base station. Further, because the skilled person would not be motivated to combine the uplink power control of Damnjanovic with the downlink transmission control or uplink quality information process of Nobukiyo, there is no legally sufficient basis to combine Nobukiyo with Damnjanovic. The applicants therefore request that the Panel reverse the obviousness rejections cited against claims 1 – 52 for failing to meet the legal requirements of a §103 rejection.

All rejections cited against claims 1 – 24 also rely on the factually erroneous position that Nobukiyo describes adjusting the power gain of traffic channel transmissions from the mobile station (e.g., relative to the mobile station's pilot signal) responsive to reception quality feedback received from one or more remote transceivers (e.g., base stations). In fact, as a basis for the rejections, the examiner relies on portions of Nobukiyo that explicitly and unambiguously describe a base station receiving reception quality feedback from a mobile station (at a frequency determined by the mobile station) and correspondingly controlling downlink data transmissions to the mobile station. See at least the Abstract and Summary.

Further, Nobukiyo's based station control based on mobile station transmitted quality feedback is not equivalent in any technical or legal sense to the claimed limitations of a mobile station adjusting its traffic channel power gain responsive to quality feed back received from a remote base station. Nobukiyo explicitly describes that the mobile stations generate and transmit quality feedback based on a base station's pilot signal. In direct contrast, independent claims 1 and 14 explicitly require that the mobile station receive the reception quality feedback for traffic channel signals transmitted by the mobile station, and the mobile station adjusting traffic channel power gain relative to the mobile station's pilot signal based on the received reception quality feedback. Because Nobukiyo explicitly describes base station processing, and not mobile station processing as required by independent claims 1 and 14, Nobukiyo explicitly teaches the direct opposite of claims 1 - 24.

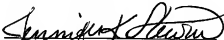
The rejections of claims 25 – 52 all rely on the factually erroneous position that Chaponniere describes adjusting the power gain of a signal relative to the transmit power of another signal responsive to the reception quality feedback. As a basis for this position, the examiner points to several sections of Chaponniere (p. 13 of the FOA). However, none of them support the examiner's position. Instead, each section describes controlling the gain of one signal relative to another signal responsive to voice and data quality measurements (col. 7, ll. 31 – 34). Because Chaponniere directly contradicts the examiner's position, the pending rejections against claims 25 – 52 are legally insufficient.

In light of the above remarks, the applicants submits that pending claims 1 – 52 contain patentably distinct subject matter. In particular, because the rejections contradict each other, because there is no motivation to combine Nobukiyo with Damnjanovic, because Nobukiyo and/or Chaponniere lacks the teachings alleged by the examiner, and because none of the cited references resolve this deficiency, the examiner has failed to establish any legally sufficient

basis for the obviousness rejections. The applicants therefore respectfully request that the
Panel withdraw all rejections.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



Jennifer K. Stewart

Registration No.: 53,639

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1400 Crescent Green, Suite 300
Cary, NC 27518
Telephone: (919) 854-1844
Facsimile: (919) 854-2084